UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/372,560	08/11/99	VANCURA	O 1482/198(A)

QM12/0922

ROBERT C DORR ESQ
DORR CARSON SLOAN & BIRNEY PC
3010 EAST 6TH STREET
DENVER CO 80206

EXAMINER	
PIERCE, W	
ART UNIT	**PAPER NUMBER**
3711	7

DATE MAILED: 09/22/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
09/372,560	Vancura
Examiner	**Group Art Unit**
William M. Pierce	3711

☒ Responsive to communication(s) filed on *pre amdt and ids of 8/11/99, ids 11/30/99, ids1/10/99, ids 1/19/99* .

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-87* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *1-87* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). *5*

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

WILLIAM M. PIERCE
PRIMARY EXAMINER

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the steps of the claim must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Steps, such as in claims 5-11, 14-18, 48, 49, 55, 56, 59, 60 and etc. Applicant is to review the claims to be certain the each step recited therein is illustrated.

2. Claims 1-87 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In the specification, the game of chance is played "separately" form the bonus game and is not play in "combination" which implies the games are played simultaneously. A method for playing only a knowledged based game is not disclosed as recited in claims 31, 59, 80, 86 and 87. The specification is drawn only to the play of a game of chance along with a question and answer type game.

3. Claims 1-87 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, in line with the rejection under 1st paragraph set forth above, the scope of the term "playing...in combination" recited in claim 1 is not clear. In claims 9 and 10, "all answers to

all queries" lacks a clear and proper antecedent. The scope of a "proximate answer as called for in claim 14 is unclear. In claim 60, "the first and second values" lacks a proper antecedent.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --

5. Claims 1-7, 12, 13, 18, 42-46, 50, 55 ,57 and 58 are rejected under 35 U.S.C. 102(b) as being anticipated by Keller and, in the alternative 2,197,974.

Claims 1-4, 41-46, 50, 57 and 58 are clearly shown. In Keller and '974, the game of chance stops when a prize has been determined or rewarded. At that point, the game of skill commences. As to claim 5, stopping the game of chance when the condition of a prize being identified is shown. As to claim 6, the game of chance stops at the end of the game. The end of each game of chance is considered to be a "given frequency" as called for in claim 7. As to claims 12 and 13, a player is "payed" a prize in Keller and '974. Claims 18, 41 and 55 are shown in that a player is payed a first prize if correctly answers and receives a second amount of no prize if incorrectly answers

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 8-11, 14-17, 19-40, 47- 49, 51-54, 56 and 59-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keller and/or 2,197,974 in view of Thompson.

As to claims 8, 47 and 61, neither of the above references show random stopping of the chance game. Thompson teaches that it would have been obvious to random conduct the steps of a game like those shown by Keller and '974 in order to add an element of surprise to the players. The setting of the house advantage in claim 9-11, 19, 20, 25-35, 48, 49, 56, 59, 60, 62, 64 and 65-69 are obvious matters of design choice. As to claims 14, 21 and 22, it is considered an obvious matter of design choice to require either an exact answer or a proximate answer that is "close enough". Similarly, allowing a player to have more than on chance to answer a query and paying out accordingly as called for in claim 63 is old and not considered an advance in the art. To have only required a proximate answer in Keller of '974 would have been obvious in order to make it easier on the player. As to claims 15-17, 23, 36-40 and 51-54, Keller and '974 show "trivia" and a "quiz". Multiple choice, puzzles and true/false questions are all well know examples of such trivia or quiz type games of skill that are known in the art. To have selected one would have been an obvious matter of design choice. Claim 24 is shown in that a player is payed a first prize if correctly answers and receives a second amount of no prize if incorrectly answers.

Claims 70-79 and 82-85 are old to trivia type games. Claims 80, 81, 86 and 87 are treated as set forth above.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Marnell shows combined games.

9. Any inquiry concerning this communication should be directed to William Pierce at E-mail address bill.pierce@USPTO.gov or at telephone number (703) 308-3551.

WILLIAM M. PIERCE
PRIMARY EXAMINER